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Turkiye proposes a draft law amending various tax laws affecting corporations and individuals doing business abroad

- *Parliament has enacted a recently proposed law that modifies numerous Turkish tax codes.*
- *The changes pertain to corporation tax, income tax, tax procedure, value added tax (VAT), special consumption tax, excise tax and more.*

On 29 November 2023, the Plan and Budget Committee of the Grand National Assembly of Turkiye (the Parliament) accepted for enactment a bill that makes changes to the Corporation Tax Code, Income Tax Code, Tax Procedural Code, Value Added Tax Code, Special Consumption Tax Code, Law on the Collection Procedure of Public Receivables, Excise Tax Code and Act of Fees.

Amendments to the Corporation Tax Code

1) Adds a 50% corporation tax exemption on the income received from foreign subsidiaries

Currently, these conditions must be met to qualify for the participation exemption on income received from foreign subsidiaries:

- Own at least 10% of the paid-in capital of the foreign subsidiary
- Hold the participation share uninterruptedly for at least one year
- Have at least a 15% total tax burden (similar to corporate tax) over the earnings of foreign subsidiary
- Transfer the income to Turkiye until the deadline of the submission of corporate tax return for the calendar year in which the income is obtained

Provided these conditions are met, participation income obtained by corporations that participate in the capital of joint stock and limited companies with legal and business headquarters that are not in Turkiye are exempt from corporation tax.

To promote foreign currency investments in Turkiye, the Bill proposes a 50% tax exemption for dividend income derived from foreign participations, without regard to the conditions mentioned above, as long as these two conditions are met:

- Own at least 50% of the paid-in capital of the foreign subsidiary
- Transfer the income to Turkiye until the deadline for submitting corporate tax return for the calendar year in which the income is obtained

This provision is expected to come into effect on the date of publication, to be applied to income and gains obtained as of 1 January 2023.

2) Increases deduction rate for certain foreign service earnings

The Bill increases the deduction rate to 80% from 50% for the earnings obtained from certain services (e.g., architecture, engineering, software, call center, bookkeeping, education and health) provided in Turkiye to nonresidents and persons whose workplace, legal and business center is located abroad and is exclusively benefited from abroad, provided that all of these earnings are transferred to Turkiye by the deadline for submitting the income/corporate tax return.

This provision is expected to come into effect on the date of publication and to apply to income generated as of 1 January 2023.

3) Extends scope of five-point reduced corporation tax rate on income derived by exporters

A five-point reduction in the corporate income tax rate applies for income derived exclusively from exportation activities in 2023 and following years. See EY Global Tax Alert, *Turkiye's new law increasing the corporation tax rates enters into force*, dated 18 July 2023.

The Bill proposes to add a new provision to include within the scope of the five-point corporation tax reduction, earnings obtained by manufacturers or suppliers from export activities carried out through foreign trade capital companies or sectoral foreign trade companies based on intermediary export contracts.

This provision is expected to come into effect on the date of publication and apply to income generated as of 1 January 2023.

4) Extends deadline of "FX-protected Deposit and Participation Accounts"

The Bill extends to 30 June 2024 the corporation tax exemption for "FX-protected Deposit and Participation Accounts," which was due to expire on 31 December 2023.

This provision is expected to come into effect on the date of publication.

Certain Amendments in Income Tax Code

1) Adds a 50% income tax exemption for individuals' dividend income obtained from foreign participations

Individuals will be exempt from income tax on 50% of the dividends obtained from their participation in joint stock companies and limited liability companies that have legal and business centers not located in Turkiye, provided that they own at least 50% of the paid-in capital and the dividends are brought to Turkiye until the deadline for the submission of annual income tax return for the calendar year in which the dividend is obtained.

This provision is expected to come into effect on the date of publication and be applicable to income generated as of 1 January 2023.

2) Exempts certain content production and internet-based services

Currently, income derived by individual social media content producers who share content such as written text, audio, visual or video content over social network providers are exempt from income tax, under certain conditions. See EY Global Tax Alert, *Turkey proposes new tax bill*, dated 4 October 2021.

Services provided on the internet and similar electronic environment and various activities, such as sharing videos for training, recipes, product promotion online, and similar electronic media will also be added to the scope of the exemption on income obtained from social content creation and app development for mobile devices.

This provision is expected to come into effect on the date of publication and apply to income generated as of 1 January 2024.

3) Increases the President's authority on certain withholding tax rates

The President is given the authority to determine the withholding tax rate on multi-year construction works.

The Bill also authorizes the President to increase the withholding tax rate on income from securities issued in foreign currency and interest income and dividends from foreign currency denominated accounts up to 40% separately or jointly.

Furthermore, the President is authorized to increase the withholding tax rate up to 40% for each capital market instrument, issuer, date of issuance or acquisition, account type, account opening date, type of earnings and revenues, their maturity, holding period and the holders thereof, and for the earnings derived from the return to the fund or other disposals of the participation certificates of investment funds, separately or jointly, depending on the portfolio structure of the fund.

This provision is expected to come into effect on the date of publication.

In addition, the Bill envisages regulations on the following topics:

- As of 1 January 2024, it is planned to abolish the lump-sum basis-expenditure practice applicable for taxpayers engaging in export, construction, repair, assembly and transportation activities abroad.
- A participation fee is introduced in return for sharing the information on the systems of the Revenue Administration. Accordingly, a participation fee of not less than 25 kurus per query or record will be charged for the information which can be shared with third parties on these systems. (Effective as of 1 January 2024.)
- Application of depreciation rates and periods for certain newly acquired machines and equipment to be as half of the useful life of such equipment until 31 December 2023 is extended to 31 December 2024.
- The profit/loss differences arising from the inflation adjustment made in 2024 and 2025 accounting periods by banks, companies within the scope of Law No. 6361, electronic payment and money institutions, authorized foreign exchange institutions, asset management companies, capital market institutions, insurance and reinsurance companies and pension companies will not be taken into account in the determination of their earnings. (Effective as of the publication date.)
- The submission and payment date for Reverse Charge Value Added Tax (RCVAT or VAT2) return is planned to be changed. Accordingly, those who are responsible to declare and withhold RCVAT will submit their returns by the evening of the 21st day of the month following the taxation period and pay them by the evening of the 23rd day. (Effective as of the beginning of the month following the publication date.)
- The President is given the authority to partially or completely abolish or reintroduce the right for VAT refund and to determine the goods or services for which the right of abovementioned refund is restricted. (Effective as of the publication date.)
- To prevent transactions based on the ordinary contracts made between motor vehicle traders from being carried out without seeking Special Consumption Tax, it has been clarified that the contracts in question must be issued at a notary public. (Effective as of the publication date.)
- It has been clarified in the Special Consumption Tax Law that the deliveries made from the Turkish domestic market to the free zone are not covered by the export exemption. (Effective as of the publication date.)
- The housing loans used directly or through cooperatives by those who own a registered house as of the usage date of the housing loans and the money received as collateral due to the insurances made in relation to these loan transactions are excluded from the scope of the Banking and Insurance Tax exemption. (Effective as of the publication date.)

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